

EXHIBIT P

NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY
VIDEOTAPED DEPOSITION OF GINA CALISHER on 09/28/2015

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING
PHARMACY, INC; PRODUCTS
LIABILITY LITIGATION : MDL No 2419
: Master Dkt.
: 1:13-md-02419-FDS
THIS DOCUMENTS RELATES TO:
: Judge Rya Zobel
All Cases Identified in :
Docket No. 1472-1 :
:

VIDEOTAPED DEPOSITION
OF GINA CALISHER

9:11 a.m.
September 28, 2015

St. Regis
5520 Ka Haku Road
Princeville, Hawaii

Susan Helton, RPR, CCR No. B-2125

1 that point to manage the business office.

2 Q. Okay. And so was Calishers
3 providing any -- any patient care?

4 A. No.

5 Q. Okay. So you were purely on the
6 management side of the facility?

7 A. Yes.

8 Q. Okay. So you don't consider
9 Calishers to be in the business of healthcare --

10 MR. KRAUSE: Object to the form.

11 BY MR. STRANCH:

12 Q. -- of providing healthcare?

13 You can answer the question.

14 A. Repeat it again. I'm sorry.

15 Q. So do you consider Calishers to be
16 in the business of providing healthcare to
17 patients?

18 A. No.

19 Q. Okay. And I am going to show you a
20 document that has previously been used in the
21 Lister deposition and is marked as Exhibit 84
22 from that deposition. (Tendered.)

23 Would you mind flipping through
24 that document and telling me -- and the question
25 I am going to ask you after you look through it

1 is, do you recognize the document?

2 A. Yes, this looks like the contract.

3 Q. So this was the agreement that you
4 were referencing that started in 2009 where you
5 were providing management services for Specialty
6 Surgery?

7 A. Obviously this was signed in June
8 of 2010. We were approached in 2009 to come
9 back.

10 Q. Okay. But this is the management
11 agreement that you have?

12 A. Yes, sir.

13 Q. And I am going to ask you to flip
14 to the back of that document, it's Bates
15 SSC-01933. Is that your signature --

16 A. Yes, sir.

17 Q. -- for Calisher & Associates?

18 A. Yes.

19 Q. So this is the management agreement
20 that was in effect between Calishers and
21 Specialty Surgery in the 2012 time frame?

22 A. Yes, sir.

23 Q. Okay. And is this a standard
24 contract that Calishers uses for the centers that
25 you provide management services to?

1 doing that or you are just not sure if it
2 happened?

3 A. I don't recall that that happened.

4 Q. Okay.

5 A. The facility -- they were
6 interested in selling it from the moment we came
7 back. They were getting on in years, so maybe
8 somewhere in the process we may have consulted an
9 attorney.

10 Q. But if you did -- you don't believe
11 you did, but if you did -- strike that.

12 To be clear, you don't believe that
13 you consulted an attorney on Specialty Surgery's
14 behalf, but if you did it would probably have
15 been in issues relating a sale of Specialty
16 Surgery, correct?

17 A. Yes.

18 Q. Did you consult any other outside
19 experts on behalf of Specialty Surgery during
20 this time?

21 A. Not that I recall.

22 Q. Okay. Who was your primary contact
23 person with Specialty Surgery?

24 A. Kim Bowlin.

25 Q. And so if you had negotiations

1 Calishers provided management services to were
2 having a hard time procuring Depo-Medrol; is that
3 your testimony? Is that -- did I correctly state
4 that?

5 MR. KRAUSE: Objection.

6 MR. BROWN: Object to the term --

7 THE WITNESS: Say that again.

8 BY MR. STRANCH:

9 Q. So after you made inquiries with
10 other clinics that Calishers provided management
11 services to, the results were that they -- that
12 some of those clinics were having a hard time
13 procuring Depo-Medrol; is that correct?

14 A. If I remember correctly, it was not
15 that we necessarily managed these other clinics,
16 they were ones that we had had an association
17 with at one time or another. It was people that
18 we knew. There was one -- there was a clinic in
19 South Haven, Tennessee. And I believe that Kevin
20 went there and asked them. He never even heard
21 of the drug and I had not either and he asked
22 them, do you use this? And it came back and they
23 were using the single-dose vials of Depo.

24 Q. Do you know the difference between
25 a compounding pharmaceutical product and a

1 product that is manufactured by a brand name --

2 A. No.

3 Q. -- FDA approved? No.

4 Okay. Do you understand the
5 regulatory differences that a compounding
6 pharmacy operates under versus an FDA approved
7 licensed manufacturer, distributor or wholesaler
8 operates under?

9 A. No.

10 Q. Did you contact any pharmaceutical
11 companies or pharmaceutical wholesalers to
12 determine whether you could have access to
13 Depo-Medrol?

14 A. No.

15 Q. So at the end of this --
16 approximately, how many clinics did Calishers
17 contact or talk to about Depo-Medrol?

18 A. I think approximately three.

19 Q. Do you remember which three?

20 A. It was the one in Tennessee, there
21 was one in California and one in New Mexico.

22 Q. Do you remember the names of those
23 clinics?

24 A. I believe that it was Landmark on
25 the West Coast. And I don't know the name of the

1 that is going to receive an NECC product,
2 correct?

3 MR. KRAUSE: Objection.

4 MR. MORAN: Objection.

5 MR. BROWN: Objection.

6 THE WITNESS: I don't know that he
7 would have to sign an individual
8 prescription form. I just know that when a
9 prescription is ordered by a physician he
10 has to sign off for it.

11 BY MR. STRANCH:

12 Q. Okay. Did you personally look at
13 any of the Tennessee regulations during this time
14 frame?

15 A. I believe I looked at the one she
16 sent me that was with regards to prescription
17 ordering.

18 Q. And did you ask any questions at
19 that time as to whether NECC was a licensed
20 distributor or wholesaler or did you -- strike
21 that.

22 Did you at any time request whether
23 NECC is licensed to distribute or wholesale
24 pharmaceutical products in Tennessee?

25 A. I believe I asked originally were

1 they licensed to do pharmaceuticals in Tennessee.

2 I do believe that I asked that.

3 Q. Do you understand that there is
4 different types of licenses for pharmaceuticals?

5 A. No.

6 Q. So you don't know different -- that
7 there is different types of licenses for
8 pharmaceutical companies?

9 A. No, I do not know that.

10 Q. Do you understand that there is a
11 difference between a compounding pharmacy and a
12 licensed manufacturer wholesaler distributing
13 pharmacy?

14 MR. BROWN: Objection. Asked and
15 answered.

16 THE WITNESS: No.

17 BY MR. STRANCH:

18 Q. Do you know what a compounding
19 pharmacy is?

20 A. No.

21 Q. Did you actually look at NECC's
22 license?

23 A. No.

24 Q. Did you tell Ms. Atkinson that she
25 could go forward with her order as long as she

1 only provided patient names?

2 A. I told her that was my only concern
3 was that there was not a procedure and diagnosis
4 on that. It was all with regards to the
5 protected health information.

6 Q. Did you, during this time, consult
7 with anybody who is an expert on pharmaceutical
8 regulations or a lawyer or something of that
9 nature?

10 A. No. My only involvement was with
11 regards to HIPAA.

12 Q. And you did not consult with an
13 attorney as to whether this information could be
14 provided or not?

15 A. No.

16 Q. Okay. Did you see in here that
17 Specialty Surgery has said that Ms. Bowlin was
18 employed by Calishers?

19 A. I believe that I read that in
20 Jean's testimony.

21 Q. Did you read all of Ms. Atkinson's
22 testimony?

23 A. It was 300 pages. I tried to.

24 Q. When did you read that?

25 A. A couple of weeks ago.